

Docket No.: G0744.70042US07
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Katherine Gordon et al.
Serial No.: 07/839,194
Confirmation No.: 6108
Filed: February 20, 1992
For: TRANSGENIC ANIMALS SECRETING DESIRED PROTEINS
INTO MILK
Examiner: D. A. Montanari
Art Unit: 1632

Certificate of Electronic Filing Under 37 CFR 1.8

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Dated: August 16, 2010

Electronic Signature for Trish McDonald: /Trish McDonald/

SUBMISSION OF TERMINAL DISCLAIMER

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant thanks the Examiner for the courtesy of the telephonic interview on August 13, 2010. During the interview, the Examiner informed the undersigned that the pending written description rejections under 35 U.S.C. § 112, first paragraph, would be withdrawn in light of the Pre-Appeal Brief Panel Review. The Examiner also informed the undersigned that the obviousness-type double patenting rejection over U.S. Patent No. 7,045,676 would be withdrawn pursuant to 35 U.S.C. § 121 in light of the restriction requirement mailed May 5, 1988 in original application Serial No. 06/849,815, which restricted out DNA construct claims.

The only remaining rejection is the obviousness-type double patenting rejection over U.S. Patent No. 6,727,405. As discussed with the Examiner, Applicant files herewith a Terminal Disclaimer to obviate that rejection. *See* MPEP § 804.02 II ("The filing of a terminal disclaimer to

obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. *Quad Envi-ronmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). The court indicated that the 'filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection.'"). The Terminal Disclaimer meets the requirements of 37 C.F.R. §§ 1.321(a)-(c). The Terminal Disclaimer is signed by someone authorized to act on behalf of the assignee and is therefore accompanied by a Statement Under 37 C.F.R. § 3.73(b), *see* MPEP § 324 VI (ownership must be established when the assignee signs a Terminal Disclaimer), as well as evidence that the person signing the Statement Under 37 C.F.R. § 3.73(b) is authorized to sign on behalf of the assignee. *See* MPEP § 324 V (someone who has apparent authority, who sets forth that they have authority, or who has been empowered by an organizational resolution submitted in the record may sign on behalf of the assignee).

If there are any actions Applicant can take to expedite issuance of this pre-GATT application, Applicant respectfully request the Examiner to contact the undersigned at the telephone number shown below.

Applicant believes no additional fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 23/2825 under Docket No. G0744.70042US07 from which the undersigned is authorized to draw.

Dated: August 16, 2010

Respectfully submitted,

By 

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